

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NIVALDO RIASCOS,

Defendant.

CASE NO. CR07-0343JLR

ORDER DENYING MOTION
FOR RECONSIDERATION

This matter comes before the court upon Defendant's Motion Pursuant to Rule 59(e) to Reconsider Denial of Compassionate Release Motion. (MFR (Dkt. # 537).) For the reasons set forth below, the Motion is DENIED.

The salient parts of this matter's procedural history are as follows:

09/26/2011	Court enters judgment against Defendant after jury trial. (Judgment (Dkt. # 438).)
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1	01/25/2021	Defendant files Motion for Compassionate Release noted for
2		02/05/2021. (Mot. (Dkt. #523).)
3	01/28/2021	The court grants the Government an extension to respond and sets a
4		new noting date for 02/19/2021. (1/28/21 Order (Dkt. # 528).)
5	02/17/2021	Government files its Response to the Motion. (Resp. (Dkt. # 530).)
6	02/22/2021	Court denies the Motion. (2/22/21 Order (Dkt. # 534).)
7	03/25/2021	Defendant files the instant Motion for Reconsideration. (<i>See</i> MFR.)

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9 Criminal motions in the Western District of Washington are governed by Local

10 Criminal Rule 12 – Pleadings and Pretrial Motions. LCrR 12(b)(3) provides:

11 Reply Brief. The moving party may, but is not required to, file and serve

12 on each party that has appeared in the action a reply brief in support of the

13 motion, together with any supporting materials no later than the noting date

14 of the motion.

15 Local Rule W.D. Wash. LCrR 12(b)(3). Under this Rule, Defendant had an opportunity

16 to file a reply brief and chose not to do so. (*See* Dkt.) LCrR 12(b)(13) governs motions

17 for reconsideration. LCrR 12(b)(13)(A) provides:

18 Standards, Motions for reconsideration are disfavored. The court ordinarily

19 deny such motion in the absence of a showing of manifest error in the prior

20 ruling or a showing of new facts or legal authority which could not have been

21 brought to its attention earlier with reasonable diligence.

22 In his Motion for reconsideration, Defendant identifies how he was “deprived of

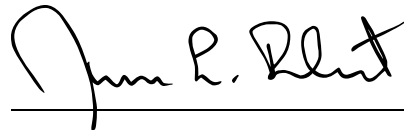
due process to respond to the [G]overnment[‘s] response” as “manifest error.” (*See* MFR

at 2.) But Defendant had an opportunity to file a reply to the Government’s Response to

1 his motion. He did not do so. (*See* Dkt.) If Defendant needed more time to reply, he
2 could have filed a motion for extension as the Government did in response to Defendant's
3 motion. (*See* Emergency Mot. for Extension of Time (Dkt. # 526).) Instead he opted to
4 file a Notice of Appeal to the Ninth Circuit. (Not. of Appeal (Dkt. # 535).)

5 Aside from his lack of reply, Defendant makes no other arguments. (*See* MFR.)
6 Thus, Defendant has not shown manifest error in the court's prior Order. He has not
7 shown new facts or legal authority. For this reason, Defendant's Motion Pursuant to Rule
8 59(e) to Reconsider Denial of Compassionate Release Motion (Dkt. # 537) is DENIED.

9 Dated this 30th day of March, 2021.

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12 The Honorable James L. Robart
13 U.S. District Court Judge
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